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1 - Texas Lawmakers Inquire Into Plant Explosion, NBCDFW, 4/27/13

<http://www.nbcdfw.com/news/local/Texas-Lawmakers-Inquire-Into-Plant-Explosion-205020601.html>

Two Texas lawmakers have launched inquiries into what oversight the state does on hazardous materials after an April 17 explosion at a fertilizer plant that killed 15 people.

2 - EPA lowered estimates of methane leaks during natural gas production, FuelFix, 4/28/13

<http://fuelfix.com/blog/2013/04/28/epa-lowered-estimates-of-methane-leaks-during-natural-gas-production/?cmpid=businesshcat>

The Environmental Protection Agency has dramatically lowered its estimate of how much of a potent heat-trapping gas leaks during natural gas production, in a shift with major implications for a debate that has divided environmentalists: Does the recent boom in hydraulic fracturing help or hurt the fight against climate change?

3 - Canadian company plans \$550 million methane plant in Ascension Parish, NOLA, 4/26/13

http://www.nola.com/business/index.ssf/2013/04/canadian_company_plans_550_mil.html#incart_river

GONZALES, La. (AP) -- A Canadian company is moving a second \$550 million methane plant from Chile to Louisiana.

4 - Wetland preservation veteran inspires visiting high school students, NOLA, 4/26/13

http://www.nola.com/environment/index.ssf/2013/04/wetland_preservation_veteran_i.html#incart_river

Perhaps no environmental activist in coastal South Louisiana better embodies the power of one than Milton Cambre. The self-appointed guardian and keeper of 12,000 acres of the LaBranche Wetlands, and the founding father of Wetland Watchers Park in Norco, Cambre for the past 50 years has fiercely championed the reclamation of St. Charles Parish's wetlands.

5 - Vitter/Boxer water bill drawing opposition after unanimous committee OK, NOLA, 4/27/13

http://www.nola.com/politics/index.ssf/2013/04/vitterboxer_water_bill_drawing.html#incart_river

Legislation drafted by Sens. David Vitter, R-La., and Barbara Boxer, D-Calif., to authorize projects and policies for the Army Corps of Engineers is running into some opposition after winning a unanimous vote last month by the Senate Environment and Public Works Committee.

6 - Red Cross: Hundreds seek help after West plant explosion, DMN, 4/29/13

<http://www.dallasnews.com/news/west-explosion/headlines/20130429-red-cross-hundreds-seek-help-after-west-plant-explosion.ece>

WEST, Texas — Red Cross officials say nearly 300 families have visited a relief center since a deadly fertilizer plant explosion decimated a Central Texas town.

7 - Boxer Draws Rare Criticism From Environmentalists Over NEPA Reforms, InsideEPA, 4/26/13

<http://insideepa.com/201304262432357/EPA-Daily-News/Daily-News/boxer-draws-rare-criticism-from-environmentalists-over-nepa-reforms/menu-id-95.html>

Senate environment committee Chairwoman Barbara Boxer (D-CA), one of the environmental community's staunchest allies on Capitol Hill, is facing rare criticism from activists over her support for reforms to the National Environmental Policy Act (NEPA) included in pending water resources legislation she crafted with her GOP counterpart.

8 - EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped, InsideEPA, 4/26/13

<http://insideepa.com/201304262432446/EPA-Daily-News/Daily-News/epa-pressed-on-conflict-policy-after-state-air-groups-contract-scrapped/menu-id-95.html>

EPA is being urged to provide information on its role in Battelle's decision to dissolve a contract to give technical assistance to a new group of state air regulators after EPA said the contract conflicts with Battelle's work with the agency, with critics of the move saying it appears the agency “bullied” Battelle into ending the contract.

9 - EPA Biomass Accounting Rule May Set Precedent On Scope Of Air Permits, InsideEPA, 4/29/13

<http://insideepa.com/201304292432499/EPA-Daily-News/Daily-News/epa-biomass-accounting-rule-may-set-precedent-on-scope-of-air-permits/menu-id-95.html>

EPA's plan to issue a rule discounting greenhouse gas (GHG) emissions from biomass sources could set a precedent for whether regulators must base air permit limits solely on emissions from facility smokestacks or can, for the first time, consider factors that occur outside a facility fenceline, such as sequestration of GHGs when biomass regrows.

Texas Lawmakers Inquire Into Plant Explosion

Saturday, Apr 27, 2013 | Updated 4:01 PM CDT

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Getty Images

Valley Mills Fire Department personnel walk among the remains of an apartment complex next to the fertilizer plant that exploded yesterday afternoon on April 18, 2013 in West, Texas. According to West Mayor Tommy Muska, around 14 people, including 10 first responders, were killed and more than 150 people were injured when the fertilizer company caught fire and exploded, leaving damaged buildings for blocks in every direction. (Photo by Erich Schlegel/Getty Images)

Two Texas lawmakers have launched inquiries into what oversight the state does on hazardous materials after [an April 17 explosion at a fertilizer plant](#) that killed 15 people.

In a letter, Democratic Sen. Rodney Ellis of Houston asks the Texas Environmental Quality Commission how the state can improve its oversight and suggests creating "buffer zones," [the Houston Chronicle reports](#).

Ellis asks whether the commissioner would consider new fees on Texas industries to pay for increased inspections. The agency's budget was cut from \$554 million in 2008 to \$340 this year. Ellis also asked if the agency would agree to levy fees to cover the cost of creating buffer zones between chemical facilities and schools or residential areas.

The letter is addressed to [Bryan Shaw, chairman of the TCEQ](#).

The West Fertilizer Co. plant where the explosion happened near a nursing home, a high school, a middle school and homes. [More than 200 people were injured in the blast in West](#).

Meanwhile, Democratic Rep. Joe Pickett of El Paso has invited eight state agencies that have oversight on the plant or the explosion to testify at a hearing Wednesday. The House Homeland Security and Public Safety Committee chairman wants a count of Texas facilities like the West Fertilizer plant to determine if a need exists for a database of such facilities.

The agencies are the Department of Public Safety, Texas Division of Emergency Management, Emergency Management Council, the Office of the Texas State Chemist, Texas Commission on Environmental Quality, Texas Department of Agriculture, Department of State Health Services and the State Fire Marshal's Office.

Pickett said the aim of the inquiries is not "finger-pointing" but rather to answer questions he and the public have. "How many of these facilities there are. Do we need to inventory them? Are there some more dangerous than others?" Pickett asked.

A [TCEQ spokesman said the agency](#) was "reviewing Sen. Ellis's letter and will prepare a timely response. Any new state, federal or local regulation must be based on determination of the cause of this tragic accident and that cause has not yet to be determined."

EPA lowered estimates of methane leaks during natural gas production

Posted on April 28, 2013 at 6:12 pm by [Associated Press](#) in [Hydraulic fracturing](#),



PITTSBURGH — The Environmental Protection Agency has dramatically lowered its estimate of how much of a potent heat-trapping gas leaks during natural gas production, in a shift with major implications for a debate that has divided environmentalists: Does the recent boom in hydraulic fracturing help or hurt the fight against climate change?

Oil and gas drilling companies had pushed for the change, but there have been differing scientific estimates of the amount of methane that leaks from wells, pipelines and other facilities during production and delivery. Methane is the main component of natural gas.

The new EPA data is “kind of an earthquake” in the debate over drilling, said Michael Shellenberger, the president of the Breakthrough Institute, an environmental group based in Oakland, Calif. “This is great news for anybody concerned about the climate and strong proof that existing technologies can be deployed to reduce methane leaks.”

The scope of the EPA’s revision was vast. In a mid-April report on greenhouse emissions, the agency now says that tighter pollution controls instituted by the industry resulted in an average annual decrease of 41.6 million metric tons of methane emissions from 1990 through 2010, or more than 850 million metric tons overall. That’s about a 20 percent reduction from previous estimates. The agency converts the methane emissions into their equivalent in carbon dioxide, following standard scientific practice.

The EPA revisions came even though natural gas production has grown by nearly 40 percent since 1990. The industry has boomed in recent years, thanks to a stunning expansion of drilling in previously untapped areas because of the use of hydraulic fracturing, or fracking, which injects sand, water and chemicals to break apart rock and free the gas inside.

Experts on both sides of the debate say the leaks can be controlled by fixes such as better gaskets, maintenance and monitoring. Such fixes are also thought to be cost-effective, since the industry ends up with more product to sell.

“That is money going up into the air,” said Roger Pielke Jr., a professor of environmental studies at the University of Colorado, adding he isn’t surprised the EPA’s new data show more widespread use of pollution control equipment. Pielke noted that the success of the pollution controls also means that the industry “probably can go further” in reducing leaks.

Representatives of the oil and gas industry said the EPA revisions show emissions from the fracturing boom can be managed.

“The methane ‘leak’ claim just got a lot more difficult for opponents” of natural gas, noted Steve Everley, with Energy In Depth, an industry-funded group.

In a separate blog post, Everley predicted future reductions, too.

“As technologies continue to improve, it’s hard to imagine those methane numbers going anywhere but down as we eagerly await the next installment of this EPA report,” Everley wrote.

One leading environmentalist argued the EPA revisions don’t change the bigger picture.

“We need a dramatic shift off carbon-based fuel: coal, oil and also gas,” Bill McKibbern, the founder of 350.org, wrote in an email to The Associated Press. “Natural gas provides at best a kind of fad diet, where a dangerously overweight patient loses a few pounds and then their weight stabilizes; instead, we need at this point a crash diet, difficult to do” but needed to limit the damage from climate change.

The EPA said it made the changes based on expert reviews and new data from several sources, including a report funded by the oil and gas industry. But the estimates aren’t based on independent field tests of actual emissions, and some scientists said that’s a problem.

Robert Howarth, a Cornell University professor of ecology who led a 2011 methane leak study that is widely cited by critics of fracking, wrote in an email that “time will tell where the truth lies in all this, but I think EPA is wrong.”

Howarth said other federal climate scientists from the National Oceanic and Atmospheric Administration have published recent studies documenting massive methane leaks from natural gas operations in Colorado and other Western states.

Howarth wrote that the EPA seems “to be ignoring the published NOAA data in their latest efforts, and the bias on industry only pushing estimates downward — never up — is quite real. EPA badly needs a counter-acting force, such as outside independent review of their process.”

The issue of methane leaks has caused a major split between environmental groups.

Since power plants that burn natural gas emit about half the amount of the greenhouse gases as coal-fired power, some say that the gas drilling boom has helped the U.S. become the only major industrialized country to significantly reduce greenhouse emissions. But others believe the methane leaks negate any benefits over coal, since methane is a highly potent greenhouse gas.

The new EPA figures still show natural gas operations as the leading source of methane emissions in the U.S., at about 145 million metric tons in 2011. The next biggest source was enteric fermentation, scientific jargon for belches from cows and other animals, at 137 million metric tons. Landfills were the third-biggest source, at 103 million metric tons.

But the EPA estimates that all the sources of methane combined still account for only 9 percent of greenhouse gases, even taking into account methane's more potent heat-trapping.

The EPA said it is still seeking more data and feedback on the issue of methane leaks, so the report may change again in the future.

The EPA revisions have international implications, too. The agency says the new report, Inventory of U.S. Greenhouse Gas Emissions and Sinks, was submitted to the U.N. Framework Convention on Climate Change by an April 15 deadline.



Everything New Orleans

Canadian company plans \$550 million methane plant in Ascension Parish

[The Associated Press](#) By [The Associated Press](#)

on April 26, 2013 at 9:22 AM

GONZALES, La. (AP) -- A Canadian company is moving a second \$550 million methane plant from Chile to Louisiana.

Gov. Bobby Jindal and [Methanex Corp.](#) Vice President Gary Rowan announced the plans Thursday in Ascension Parish, saying the move will add 35 jobs to 130 expected when the first plant opens late next year in the [Geismar community](#), about 20 miles from Baton Rouge.

[Supply restrictions have kept Methanex's factories at Cabo Negro in southern Chile operating below capacity](#), according to the company. Chile originally had four plants and Methanex, based in Vancouver, British Columbia, has invested more than \$1.3 billion there since 1998, according to the company website.

The two Louisiana plants are expected to cost a total of \$1.1 billion.

The second Louisiana plant will let Methanex benefit quickly from low natural gas prices in North America, said Methanex president and CEO John Floren.

Methanex, described as the world's largest producer of methanol, expects to break ground on the second plant in 2014, with construction lasting about two years. Hiring for the first methanol plant is under way.

Methanol is used in products from windshield washer fluid to recyclable plastic bottles, plywood floors, paint, silicone sealants and synthetic fibers, and is blended into gasoline and other fuels.

Louisiana Economic Development offered Methanex a \$1.2 million performance-based grant for site infrastructure improvements. Methanex also is expected to use Louisiana's workforce development program, industrial tax exemption and rebates under the state's quality jobs program.

"It's unprecedented to have a company announce two \$500-plus million projects in our parish within the same 12-month period and we are thankful for Methanex's further expansion," Parish President Tommy Martinez said.

Louisiana's incentives for the first plant included \$3.8 million to pay for some infrastructure costs and \$1.5 million to cover relocation expenses.

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Everything New Orleans

Wetland preservation veteran inspires visiting high school students

[Juliet Linderman, NOLA.com | The Times-Picayune](#) By [Juliet Linderman, NOLA.com | The Times-Picayune](#)
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on April 25, 2013 at 7:00 PM, updated April 25, 2013 at 7:43 PM

Perhaps no environmental activist in coastal South Louisiana better embodies the power of one than [Milton Cambre](#). The self-appointed guardian and keeper of 12,000 acres of the [LaBranche Wetlands](#), and the founding father of [Wetland Watchers Park](#) in Norco, Cambre for the past 50 years has fiercely championed the reclamation of St. Charles Parish's wetlands.

So, when the Coastal Protection and Restoration Authority, in conjunction with [LSU AgCenter's](#) Youth Wetlands Program, began developing a workshop for a group of more than a dozen 10th-grade students from Washington, D.C., spending an afternoon with Cambre in the wetlands, planting vegetation, was determined to be the perfect learning opportunity.

On Thursday, 13 Washington International School students, armed with bright red shovels and clad in soggy sneakers, gathered in Wetland Watchers Park, eager to splash into Lake Pontchartrain's marshes and plant as much smooth cordgrass as they could in one afternoon.

"I would credit Milton with everything that's been done in LaBranche," said St. Charles Parish Coastal Zone Manager Earl Matherne, who introduced Cambre to the students after explaining the history of wetland restoration in St. Charles Parish. "That's more than 10,000 acres of wetlands that's here only because he cared."

For the past five decades, Cambre, 78, a constable in Norco, has taken to the coast of Lake Pontchartrain to plant vegetation in a grassroots effort to stymie the erosion and saltwater intrusion that runs rampant in coastal Louisiana, and to begin to build back a vibrant habitat that is both tremendously delicate, and so often taken for granted.

"We were losing the coastline here really fast," Matherne said of the area where Wetland Watchers Park now stands. The LaBranche Wetlands, of which the Wetland Watchers Park is a part, has experienced roughly 6,000 acres of land loss during the past 50 years, because of the construction of I-10 and the digging of canals that allowed brackish water to infiltrate freshwater ecosystems, compromising plants and wildlife.

"We were losing 15 feet of coastline per year. The shoreline was retreating into the woods," Matherne said. "But through a cooperative agreement with the [Pontchartrain Levee District], which owned the land, and the parish, we started trying to figure out how to stop the erosion. We decided instead of armoring the shoreline, and trying to stop it there, we would try and reclaim some of the area."

Wetland Watchers Park, located at the end of the Bonnet Carre Spillway's East Guide Levee Road, opened to the public in October of 2010. Ten years ago, it was open water; through a lengthy effort, partially spearheaded by Cambre, a portion of the 28-acre area along the lakefront was filled in using dirt and construction debris, and the coastline was fortified with concrete slabs.

The park features two outdoor classrooms, a nature trail that traverses the marshland, benches and picnic tables along the water's edge, and a jetty, ideal for fishing and crabbing. But when [Hurricane Isaac](#) made landfall in the River Parishes last August, it dumped nearly five feet of rain on the park, and damaged almost all of its structures. The park is now in a state of recovery.

But before there even was a park, there was Cambre, who for decades took several trips to the muddy marshland each week to plant grass and trees. "I've been involved in this for 50 years," Cambre said. "It's something I could see happening to our coast, and I wanted to leave something for our next generation. I've shrimped, I've fished -- these wetlands sustain all of the things we take for granted.

"You don't realize what you can do. If you're serious about something and you get involved in it, it's unbelievable what you can do," Cambre said. "To leave something for future generations, you need to be a part of it. I'm proud of this park."

The organizers of the field trip hoped that Cambre's story would inspire the students to become active stakeholders in preserving wetlands, and show them the power and impact one individual can have on his or her environment.

"We want to teach the kids at this age that one person can make a difference, and these will be the people growing up and voting on legislation that will affect our state," said LSU AgCenter Youth Wetlands Program Manager Ashley Mullens. "We want to get them out here, and get them dirty."

Chuck Perrodin, a representative for the Coastal Protection and Restoration Authority, said, "We want to especially educate the young people. We are trying to save Louisiana now and for the future, and they are the future. It's a never-ending thing we're embarking upon. We have to restore and protect [the wetlands], but we also have to maintain it, for a long time to come."

On Thursday, the students took that message to heart as they bounded into the murky lake water, plants in both fists.

"I'd never seen a swamp or wetlands before, so it's an experience that I wanted to have," said 16-year-old Vishal Ravi, knee-deep in lake water. Ravi said he wants to become a meteorologist. "Just hearing about the coastline disappearing along the Gulf and along the lake, I'm so sad. It's so beautiful, I love everything about it. And I'd love to be a part of this effort for the rest of my life."

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Everything New Orleans

Vitter/Boxer water bill drawing opposition after unanimous committee OK

[Bruce Alpert, NOLA.com | Times-Picayune](#) By [Bruce Alpert, NOLA.com | Times-Picayune](#)

on April 25, 2013 at 5:22 PM, updated April 25, 2013 at 5:38 PM

WASHINGTON - Legislation drafted by Sens. [David Vitter](#), R-La., and [Barbara Boxer](#), D-Calif., to authorize projects and policies for the [Army Corps of Engineers](#) is running into some opposition after winning a unanimous vote last month by the Senate Environment and Public Works Committee.

Two influential Senate Democrats, [Jay Rockefeller](#) of West Virginia and [Ron Wyden](#) of Oregon, have asked Boxer, the committee's chairwoman and a long-time advocate for strong environmental regulation, to strip a provision that would streamline environmental oversight of Corps water projects. Vitter is the top Republican on the committee.

"Time and time again, outside agency reviews of Army Corps of Engineers projects have identified significant economic, public safety, and environmental problems," Wyden and Rockefeller wrote in letter to Boxer first reported Thursday by E&E daily.

During the discussion of the bill last month at the Environment and Public Works Committee, Vitter said the streamlining provisions are intended to ease bureaucratic impediments that have resulted in long delays, particularly for important flood control projects and coastal restoration projects in Louisiana. Boxer insisted that strong environmental oversight would remain.

Vitter also added a provision that would enable local governments to take over management of key projects. He said Thursday that the bill is moving forward.

"One of the very top priorities I've been working on since day one with WRDA (Water Resources Development Act) is reforming the Corps and cutting through bureaucracy, and our bipartisan bill that was unanimously reported out of committee bill does that in a meaningful way. WRDA is still on path to be in front of the full Senate soon," Vitter said.

The Natural Resources Defense Council, an environmental group, accused Boxer of bowing to Vitter in order to get water resources bill through committee with strong bipartisan support.

"In the interest of bipartisanship, Sen. Boxer, usually a stalwart supporter of environmental safeguards, has teamed up with a colleague who often tries to weaken them, in order to get the water resources bill through the Senate," said council spokeswoman Elizabeth Heyd.

Boxer has said that she hopes the water resources bill, which authorizes Army Corps programs and policies important to her home state of California, will be taken up by the Senate soon.

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Associated Press, 4/29/13

WEST, Texas — Red Cross officials say nearly 300 families have visited a relief center since a deadly fertilizer plant explosion decimated a Central Texas town.

Red Cross spokeswoman Anita Foster says the recovery center in West will remain open through Sunday.

The April 17 blast in West killed 14 people and left about 200 hurt. Investigators are trying to determine what sparked the fiery accident.

Foster says Red Cross teams have served about 18,000 meals and snacks since the disaster. The agency has handed out shovels, rakes and work gloves as more residents are allowed back into damaged parts of West in a process that continued Monday.

A boil water notice remains in effect for West as crews repair damaged lines.



Daily News

Boxer Draws Rare Criticism From Environmentalists Over NEPA Reforms

Posted: April 26, 2013

Senate environment committee Chairwoman Barbara Boxer (D-CA), one of the environmental community's staunchest allies on Capitol Hill, is facing rare criticism from activists over her support for reforms to the National Environmental Policy Act (NEPA) included in pending water resources legislation she crafted with her GOP counterpart.

The League of Conservation Voters (LCV), Natural Resources Defense Council (NRDC) and 11 other groups sent an [April 15 letter](#) to the Senate urging legislators to reject any attempt to bring the bill amending the Water Resources Development Act (WRDA) to the Senate floor for either debate or passage.

"As drafted, this legislation would radically undermine the protections provided by four decades of environmental laws enacted with strong bipartisan support. The consequences of enacting this bill would be devastating. Projects designed without the full application of these laws will put people in harm's way, damage the environment, and waste taxpayer dollars," the letter says.

The LCV— which awarded Boxer a perfect score for her environmental votes in 2012 and has given her a 90-percent lifetime score — will "seriously consider scoring" senators' votes on the water resources measure, penalizing those who vote for passage, thanks to "serious concerns" over its environmental impacts, a spokesman for the group says.

The pending legislation, S. 601, authorizes spending on scores of water resources projects overseen by the Army Corps of Engineers. Boxer crafted the bill with Sen. David Vitter (R-LA), the committee's ranking Republican.

The measure unanimously cleared the panel on March 20 and was listed on the Senate calendar April 22, one of the final steps before consideration by the full body, though it was not considered before senators broke for a week-long break that will end May 6.

The bill includes a host of provisions that seek to limit and speed environmental reviews required by NEPA, echoing calls by Republicans and industry groups who say the reviews slow down development projects and are often redundant. Among other things, the bill includes provisions that shorten NEPA deadlines and fines agencies when they fail to complete a review in time, and allow for greater use of programmatic processes and categorical exclusions from review. It also designates the Corps as the lead agency for all environmental reviews of projects authorized under WRDA -- a change intended to centralize environmental reviews, but which environmentalists say could have significant unintended consequences.

Boxer's committee spokesman did not return calls seeking comment.

The NEPA provisions in the WRDA legislation mirror language in highway legislation that President Obama signed in 2012. Boxer said in a statement after the highway bill passed that its NEPA provisions "speed up project delivery, cut red tape, and do it without jeopardizing environmental laws."

Speaking at the National Waterways Conference's legislative summit in Washington, D.C., March 13, shortly before WRDA was unveiled, Vitter called the transportation bill's NEPA language "a huge concession" from Boxer and other Senate Democrats that Republicans worked to transfer to the Corps reauthorization.

NEPA Reforms

But environmentalists say such streamlining provisions are not necessary because NEPA reviews are not the reason for project delays and are livid that Boxer agreed to include the language in the WRDA bill.

"In the interest of bipartisanship, Sen. Boxer, usually a stalwart supporter of environmental safeguards, has teamed up with a colleague who often tries to weaken them, in order to get the water resources bill through the Senate," NRDC said in an April 11 memo to reporters.

They fear that including the highway provisions in the WRDA bill will set an adverse precedent that will make it difficult to oppose similar provisions in other legislation.

To make its case, NRDC recently distributed a report from the Congressional Research Service that found that "when environmental requirements have caused project delays, requirements established under laws other than NEPA have generally been the source."

Environmentalists add that the NEPA provisions in the highway bill were intended to stave off a GOP amendment authorizing the Keystone pipeline, but are now being adopted in a host of other measures. "They were a price the Democrats thought they needed to pay to get the bill through without" the pipeline provisions, one environmentalist says.

But the enactment of the highway provisions have spawned a suite of [pending bills](#) that now include similar NEPA reforms is S. 258, governing grazing on federal land, which was discussed but not voted on in the Senate energy committee April 25, and H.R. 761, which governs mine permits for strategic minerals.

Even pending immigration legislation, S. 744, includes language that says environmental review of newly built-barriers to illegal border-crossing or surveillance equipment "shall not result in any delay in the processing or approving of applications or special use permits," and exempts any new rules crafted under the bill from NEPA review.

Those provisions mirror language in the 2005 REAL ID Act, which allowed the Department of Homeland Security to waive any federal statute for the purposes of border fence construction to ensure national security – a power that the Bush administration used to sidestep environmental review of new construction.

One source says that Boxer got little in return for the concession. The source notes that NEPA is currently aiding Boxer on several issues that are important to her. For example, a federal district court in California [recently ruled](#) to require the Bureau of Land Management to weigh potential contamination impacts from leasing land in the Golden State for hydraulic fracturing, a practice over which Boxer has sought stricter regulation.

And EPA [recently urged](#) the State Department to strengthen its NEPA review of the potential greenhouse gas and other impacts from the proposed Keystone pipeline, which Boxer has previously said she is "very concerned about" because of its contribution "to dangerous climate change."

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Daily News

EPA Pressed On Conflict Policy After State Air Group's Contract Scrapped

Posted: April 26, 2013

EPA is being urged to provide information on its role in Battelle's decision to dissolve a contract to give technical assistance to a new group of state air regulators after EPA said the contract conflicts with Battelle's work with the agency, with critics of the move saying it appears the agency "bullied" Battelle into ending the contract.

Conservative think tank American Tradition Institute (ATI) filed an April 25 [Freedom of Information Act \(FOIA\) request](#) seeking copies of all EPA Office of the Administrator and Office of Air & Radiation emails, instant messages and text messages sent from Jan. 2 through the present day that reference the new air group and Battelle.

Texas is also pressing EPA for answers about [Battelle's decision to end the contract](#) to provide services to the nascent Association of Air Pollution Control Agencies (AAPCA), a group that aims to give states technical help implementing EPA rules. "[W]e admonish the EPA not just for bullying Battelle into withdrawing from the AAPCA contract, but also for lack of communication with AAPCA directly," Texas said in an April 5 letter to EPA.

AAPCA initially contracted with Battelle to administer the group's launch, which Ohio EPA Director Scott Nally spearheaded as an alternative to the National Association of Clean Air Agencies (NACAA), a group that represents many local and state air agencies. AAPCA launched Jan. 23 with 17 members, including a handful of states that criticized NACAA for taking policy positions supporting EPA emissions rules that some of NACAA's members oppose.

Nally said that his group would focus on technical work implementing agency rules, and reached out to Battelle for assistance. But an early rift developed among AAPCA members over signals the group might pursue a political agenda to fight EPA rules, a stance at odds with its intent to focus on technical support to states.

Last month, Battelle dissolved the contract with AAPCA, a move that sources at the time said was a result of EPA pressuring Battelle by threatening its current and potential future contracts with the agency. Battelle at the time would not say what type of work the agency found to be in conflict with the AAPCA contract.

ATI in its FOIA request builds on the suggestion that EPA pressured Battelle into ending the contract, saying, "We are interested in EPA's discussions" of AAPCA, "a group formed to exchange technical information regarding state-level compliance with EPA Clean Air Act regulations -- technical information that is apparently not well-received within the agency -- and EPA overtures to an AAPCA contractor(s) which might be vulnerable to pressure from EPA to terminate those relationships for fear of jeopardizing current or possible future EPA contracts."

The Texas Commission on Environmental Quality (TCEQ) also sent [an April 5 letter](#) to EPA air chief Gina McCarthy, President Obama's nominee to lead the agency, seeking information about the agency's handling of the matter.

"Instead of initiating a conversation regarding such a consequential decision, EPA chose to threaten our contractor with the loss of current and future contracts," TCEQ says.

EPA and Ohio EPA spokespeople did not respond to requests for comment, and Battelle declined to comment on either the FOIA request or the TCEQ letter. ATI says in a statement that it looks "forward to learning what EPA officials said among themselves about this alleged mob-style intimidation of a private company."

Conflict-Of-Interest

An ATI source says the group filed the FOIA request to find out details of what the source calls “a pretty incredible example of ‘gangster government’” that “involves EPA threatening Battelle with contractual retaliation if it continues to do consulting work for states opposed to EPA” regulations. The source is also seeking more information on other examples of people “similarly shaken down” by EPA and may file FOIA requests for those records as well.

Battelle has entered into EPA contracts in recent years worth \$239 million, including more than \$147 million for work in Ohio, where the organization is based, according to *USASpending.gov*.

EPA headquarters and Region V spokespeople last month declined to comment on which contract was in conflict, saying they did not have enough information to make a determination. Battelle declined to provide specifics, though Ohio's Nally told *Inside EPA* March 19 that he would continue to seek more information.

State officials were quick to warn the Battelle conflict could have consequences for other contractors that do work for EPA and for groups that have relationships with the agency. And observers say it also raises question about the role of a contractor that signs a contract to do work for the agency and a recipient of EPA grant funds, given that the AAPCA member states were to have paid Battelle for its work in part through EPA grants.

Additionally, an American Petroleum Institute source tells *Inside EPA* that the trade group contracted with Battelle to conduct a hydraulic fracturing study. “How is it that they could work on that report for us, and they can't work for states to give them advice on air issues? How is that a conflict? It smells.”

The TCEQ letter, signed by Chairman Bryan Williams, also asks whether EPA has made similar conflict-of-interest determinations for other multi-jurisdictional organizations, including AAPCA rival NACAA.

“Does NACAA have any contractors that also have contracts with EPA?” the letter asks. “How will this decision be consistently applied to other organizations and contractors?”

Further, it seeks information on what agency official made the Battelle contract decision and what authority it was executed under. And it seeks guidance from EPA for how AAPCA should choose a future contractor in light of the Battelle situation. EPA has not yet responded to the letter, a TCEQ spokesman says. -- Dawn Reeves (dreeves@iwpnews.com)

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Daily News

EPA Biomass Accounting Rule May Set Precedent On Scope Of Air Permits

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EPA's plan to issue a rule discounting greenhouse gas (GHG) emissions from biomass sources could set a precedent for whether regulators must base air permit limits solely on emissions from facility smokestacks or can, for the first time, consider factors that occur outside a facility fenceline, such as sequestration of GHGs when biomass regrows.

One industry source says that while EPA has authority to discount emissions at a single facility, it has never before based a rulemaking on emissions beyond a fenceline, such as subtracting actual emissions from a smokestack based on the materials regrowth elsewhere in the country. "That's new ground," the source says.

The fate of the rule -- which EPA has yet to propose -- is unclear pending a decision in an ongoing appellate suit brought by environmentalist challenging the agency's 2011 rule temporarily exempting biomass from GHG permit requirements until July 2014.

The decision in that suit could either dramatically expand or limit the agency's discretion on exempting biomass from GHG permits. But regardless of how the court rules, EPA is expected to eventually issue the discounting rule -- which is expected to provide a method for discounting GHG permit limits for biomass facilities to account for GHG sequestration that occurs naturally when biomass regrows.

EPA's Science Advisory Board (SAB) last year completed review of how the agency can improve its so-called biogenic accounting framework (BAF) for GHGs, which EPA hopes to use in its pending rule, but the board criticized the agency's plan and called for officials to make a number of significant changes to its planned BAF.

The industry source says that if EPA prevails in the pending appellate litigation, then environmentalists should abandon any future challenge to the accounting rule or run the risk of significantly curbing longstanding EPA flexibility to mandate the use of processes, materials and other practices at facilities in stationary source air permits. The emissions reductions from those practices are not counted at the smokestack but the requirements are mandated in the permit.

Among the permitting practices that could be at risk is the use of "netting" emission credits that allow for addition and subtraction of emissions at individual units as long as a facility's overall cap does not change, the source says. Other examples include the use of work practice standards contained in best available control technology (BACT) analysis that seek to boost efficiency, and minimize fugitive emissions such as leaks and flares.

Environmentalists' expected argument that EPA can only look at what comes out of smokestacks is "disingenuous" and carries high risks for environmentalists, the source says. "They've got to be careful" because "if they win that case, it might be a win for industry. That's what companies want, just look at the stack and don't tell me how to run or design my facility."

But one environmentalist following the case says a court ruling on the deferral could go in a number of different directions that would not necessarily put at risk future environmentalist challenges, and instead could inform "how EPA can or can't use these kinds of excuses not only in its GHG program but also in other contexts where the statutory language is clear and mandatory."

The environmentalist says regardless of how the court rules in the deferral case, EPA will likely face a legal challenge if it seeks to discount GHG from biomass by rulemaking. "The statute says it's a regulated pollutant" and so a permit is needed, the source says. "The universe they are operating in is one in which they will have to depart from the statute in some way to do anything further with biomass. The issue will come up again."

Temporary Waiver

A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit [April 8 heard oral arguments](#) in *Center for Biological Diversity, et al. v. EPA, et al*, the suit challenging EPA's temporary waiver.

In their questions, the judges appeared split over whether the court's earlier decision backing the agency's flexible GHG permitting program, including its tailoring rule, allows the agency similar flexibility in the case of biomass permitting. In its ruling in *Coalition for Responsible Regulation, et. al, v. EPA, et. al*, the D.C. Circuit found that industry groups lacked standing to challenge EPA's tailoring rule -- which eased Clean Air Act permitting threshold aimed at conventional pollutants to avoid otherwise "absurd results."

If EPA loses the biomass case, that could suggest the D.C. Circuit will adopt a strict statutory interpretation on the rest of the agency's GHG efforts, as outlined by Judge Brett Kavanaugh who repeatedly asked to see the statutory language authorizing EPA to defer a category of emissions from permitting requirements.

Also at the arguments, attorney Roger Martella, representing biomass industry intervenors for EPA, urged the court to uphold the deferral and allow environmentalists to come back to challenge the rule. And in response to questions from the judges about how EPA might go about designing a BAF, Department of Justice attorney Perry Rosen, representing the agency, cited netting as an example of the agency's authority to take such a step.

The industry source says environmentalists' "battle is to win" the case. "If they lose, they lost the issue. . . . To attack how the program works on a broader basis presents more risk than anything else. . . . It's going to be harder [for them to challenge a future biomass accounting rule] and that may have some detrimental effects to the program for other pollutants."

A biomass industry source is cautiously optimistic the court will uphold EPA's deferral and allow the agency to move forward with a biomass accounting rule -- something officials have yet to do since the SAB provided its advice.

"I think they're hesitating," the source says. The agency is also making no commitments that the rule will be issued prior to the deferral's expiration next summer.

Meanwhile, environmentalists continue to press the point that EPA's deferral conflicts with its tailoring rule because, unlike the agency's broad justification for that statutory deviation, it offers no specific analysis for why it does so here, other than to say it is difficult to account for lifecycle GHG emissions from biomass and needs to better study the science. They argue EPA had many options other than to subtract the emissions entirely in air permits. "EPA bears a very heavy burden to show why it can't follow the letter of the law" and it fell short here, unlike in its tailoring rule, the environmentalist says.

A second environmentalist adds that what EPA is doing with biomass is completely different from what it did when it established the more lenient permitting triggers in its tailoring rule. "It's like the laws of psychics are turned upside down. It is emitted. It doesn't grow back from the stack."

This source adds that EPA in allowing the deferral "risks shooting its foot off . . . because it seems like the court could take a look at this and say this is a good one to remind EPA that there are boundaries" to its discretion.

The industry source says the only similar example of EPA's biomass accounting work is a 2009 guidance where the agency sought to rank volatile organic compounds based on their ability to form ozone. However, that guidance was never developed into a rulemaking. -- Dawn Reeves (dreeves@iwpnews.com)

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